

**FRANKFORD TOWNSHIP LAND USE BOARD
JUNE 18, 2008 – 7:00 P.M.
MINUTES OF THE REGULAR MEETING**

CALL TO ORDER

This meeting was called to order by the Board Chairman, Mr. Romania, by announcing that notice appeared in the New Jersey Herald and the New Jersey Sunday Herald in accordance with the requirements of The Open Public Meetings Act.

Flag Salute

ATTENDANCE

Those Present were: Mr. Ayers, Mr. McDowell, Mr. Bennett, Mrs. Fountain, Mr. Gstattenbauer, Mr. Sutphen, Mr. Larson, Mr. Romania, Mrs. Albanese, Mr. Dolan, and Mr. Nadolny. Also present were Mr. Clark, the board attorney, and Mr. Pellow, the board engineer.

Those absent were: Mr. Shelton (excused).

RESOLUTIONS

Off Shore Marine, Inc. – LUB 07-12 – Block 50, Lot 3.01 – 352 US Highway Route 206 – Preliminary & Final Major Site Plan & “C” & “D” Variances:

The board reviewed Mr. Pellow’s report dated June 18, 2008 with regard to the revisions needed on the site plan map, which is to be attached to the Resolution. It was noted that the following revisions must be made to the map: Item “4”: The 20 foot access aisle has to be shown on the revised plan; and Item “5”: The storage area for boats under service and repair should be distinguished by some type of hatching for ease of identifying the area in the field. It was discussed and agreed by the board to allow the applicant to complete all the improvements required by the approval within 18 months of the date of the memorialization of the resolution. Mr. Clark indicated that this should be added to the Resolution.

The Resolution was reviewed. A Motion was made by Mrs. Fountain and seconded by Mr. Larson to approve the Resolution for Off Shore Marine, Inc. for a Preliminary & Final Major Site Plan & “C” & “D” Variances. Roll Call:

YES: 7 Ayers, Bennett, Fountain, Gstattenbauer, Larson, Romania, Dolan

NO: 0

ABSTAIN: 0

The Motion was carried.

BOARD BUSINESS

COAH – SEED Corp. (Presentation by Donna DelValle):

Appearing before the board was Donna DelValle from SEED Corp. She explained that SEED Corporation is a non-profit housing development organization. The geographic area of this corporation is Northern New Jersey and they manage all the properties that they own. She indicated that her company will work with the township to determine its needs such as their COAH obligation, and how they may be able to obtain bonus points, acquiring existing properties that are in need of rehabilitation, or properties that the municipality owns that need to be rehabilitated. She indicated that she will also work with developer’s in the township to meet their COAH obligations. It was suggested that the COAH committee meet with Mrs. DelValle and discuss what she can offer the Township.

BOARD BUSINESS CONT.

Subcommittee Reports:

Green Ordinance Committee (Small Wind Energy Ordinance):

Appearing before the board was Frank DeWitt to discuss the Small Wind Energy Ordinance.

Mrs. Albanese handed out to the board a sample Ordinance drafted by the subcommittee. She indicated that they basically took the Galloway Ordinance submitted by Mr. DeWitt as a sample and revised it to meet the recommendations of the Frankford Land Use Board. The changes that were made are as follows:

- 1) Page 2 refers Small Wind Energy Systems to be 100 kilowatts or less; the subcommittee suggested 200 kilowatts. Mr. DeWitt indicated that 100 kilowatts are sufficient. The board agreed to leave it at 100 kilowatts. It also refers to 10 kilowatts in the ordinance. Mrs. Albanese stated it needs to be discussed if this is acceptable or should it be raised to 20 kilowatts. Mr. DeWitt indicated that 10 kilowatts will be the norm for most residences. However, there are some farms and larger residences being built that may need 40-kilowatts. He indicated that Galloway stopped at 10 kilowatts because they were concerned with sound and they thought if it went over 10 kilowatts there would be more sound. Mr. DeWitt indicated that this is not the case. He indicated that as long as the township has the sound ordinance, the definition of what decimal levels are allowed, then the size of the turban should not matter. The board agreed to restrict this to 20 kilowatts.
- 2) Page 3 refers to the minimum lot size, which Mrs. Albanese feels the board should discuss. Galloway Township had a minimum lot size of 1 acre. It was suggested that the minimum lot size be 6 acres since (as mentioned in item "4" below) they would like to limit it to farms only at this time. To be farm assessed you have to have 6 acres or more. It was also suggested that the minimum lot size should be 10 acres. The board agreed to limit it to one unit only on a minimum of 10 acres.
- 3) Mrs. Albanese also feels the board needs to discuss the height limitation on these structures. Galloway Township had a maximum height of 115'. Mr. DeWitt suggested that the height of the tower be slightly higher at 155' or 160' because of the size of the turbine. Therefore, the total height of the tower, plus the blades would be at 152'.
- 4) Mrs. Albanese indicated that the subcommittee had a discussion of limiting the towers to farms only. The second question was if the property is farm-assessed can you limit it as to where the tower is located. Mr. Clark indicated that you can limit the location of the tower on farm-assessed property. Therefore, they would also like to limit the location not to be in the front yard and the setbacks must be the height of the tower from the property lines and any building structures.

Mr. Ayers questioned Mr. DeWitt if the towers are solid. Mr. DeWitt indicated that there are different tower types. What he has been promoting before this board is the ones that would be more in line with the old windmills. He indicated that the guide towers have a 4' x 4' base, which have cables coming out 85'. He was recommending to keep with the farm look to go with the self supporting lattice towers which has a base of 15' to 18' square depending on the soil density. Mr. DeWitt stated with a 50-kilowatt generator, the footprint of the base is 8' square and 20' down; so you can go deeper rather than wider.

BOARD BUSINESS CONT.

Subcommittee Reports cont.:

Green Ordinance Committee (Small Wind Energy Ordinance) cont.:

Mr. Sutphen questioned Mr. DeWitt as to the feed wires of the tower as to where they will be either underground or over head. Mr. DeWitt indicated that they always go underground. Mr. Sutphen suggested that this must be one of the requirements mentioned in the Ordinance.

Mr. Romania was concerned about the visual affects of these towers on the neighbors. Mrs. Albanese suggested that there be some kind of site plan approval on these towers, such as a subcommittee, which will consist of the board engineer and 2 board members to review these applications. Mr. McDowell indicated that he was concerned about the ridgeline. Mr. Clark indicated that they could restrict the towers from being on the ridgeline. Mr. Pellow indicated that the ridgeline needs to be defined. Mr. Romania suggested that the neighbors are noticed when one of these plans are submitted to the subcommittee. Mr. Clark indicated that the board can require the applicant to notice within 200' from the property lines.

It was also discussed that these towers will only be allowed in the AR Zone.

Mrs. Albanese indicated that at a later date the subcommittee would also like to incorporate the solar energy ordinance into this.

It was agreed to carry this mater to the June 25, 2008 Land Use Board meeting with the revisions discussed this evening.

PUBLIC PARTICIPATION

A Motion was made by Mr. Nadolny and seconded by Mr. Dolan to open this meeting to the public. All were in favor. The Motion was carried.

There being no public participation, a Motion was made by Mr. Gstattenbauer and seconded by Mr. Ayers to close this meeting to the public. All were in favor. The Motion was carried.

EXTENSIONS

Susan Lee/Hillside View – LUB 04-01 – Block 7, Lot 4 – Fenwick Road/Skyline Drive – Preliminary Major Subdivision – Extension Request:

A letter was received from the applicant's attorney requesting a 1-year extension of the above approval. A Motion was made by Mr. Gstattenbauer and seconded by Mr. Ayers to approve a 1-year extension of the above Preliminary Major Subdivision for the applicant Susan Lee/Hillside View. All were in favor. The Motion was carried.

NEW APPLICATIONS

County of Sussex (Farmer's Market) – LUB 08-13 – Block 10, Lot 4 & Block 11, Lots 3, 4 & 5 – Sussex County Farm & Horse Show Property – Review by Planning Board for Capital Projects (Pursuant to N.J.S.A. 40:55D-31 – Site Plan:

Mr. Romania and Mrs. Fountain stepped down from this application. Mr. Pellow also stepped down as board engineer and Mr. Kenneth Wentink entered the meeting as the Board engineer. Mr. Ayers took over as Chairman.

NEW APPLICATIONS CONT.

County of Sussex (Farmer's Market) – LUB 08-13 – Block 10, Lot 4 & Block 11, Lots 3, 4 & 5 – Sussex County Farm & Horse Show Property – Review by Planning Board for Capital Projects (Pursuant to N.J.S.A. 40:55D-31 – Site Plan:

Appearing before the board representing the applicant was their attorney, Dennis McConnell, their engineer, William Koppenaar, and a representative of the Fair Grounds, Robert Silk. Mr. Koppenaar and Mr. Silk were sworn in by the board attorney.

Mr. McConnell indicated that this is an application for a Farmer's Market for the County of Sussex, which will be located on property of the Sussex County Farm & Horse Show/New Jersey State Fair.

Mr. Koppenaar referred to Sheet 3 of the site plan, which shows the location of the proposed site. He indicated that as you enter the Farm and Horse Show this building is proposed to be on the left-hand side and will be the first building as you come in the entranceway. It is in close proximity of the existing barn on the site. Mr. Koppenaar referred to Sheet A-1 of the architectural drawings. The building is proposed to be a 40' x 70' building. Mr. McConnell indicated that they have received \$297,000 from the Federal Government in Grants to build this structure. They would like to have a 40' x 100' building. However, they are putting this building out to bid and if they can afford to build the 40' x 100' building and keep within the \$297,000 budget, they will. If they can't stay within this budget, they will have to build the 40' x 70' building as shown in Sheet "A-1".

Mr. Clark questioned Mr. Koppenaar as to the uses proposed for this building. Mr. Koppenaar indicated that the uses of the building are for a Farmer's Market to be used several days a week, mostly on weekends. He further stated that when they are not using the building, the Farm and Horse Show then has the right to come and utilize the building for its purposes, which will be compatible to the uses proposed. Mr. Clark questioned Mr. Koppenaar as to what uses are compatible. Mr. Koppenaar indicated that it would be farm related.

Mrs. Albanese questioned Mr. Koppenaar as to the design of the inside of the building. Mr. Koppenaar indicated that the building will be an entirely enclosed building, but it will not be heated and there will not be any plumbing.

Mr. Wentink reviewed his report dated June 13, 2008:
Number 13 of the checklist refers to application form to the Sussex County Soil Conservation District should be checked "Waiver" because it is better submitted after any revisions that may have been generated by the Municipal Board review.

Number 14 of the checklist refers to NJDEP applications and is marked N/A. The pond scales 115 feet from the shaded area (disturbed area). I have been told by a wetlands consultant that the transition area would more than likely be 50 feet. Mr. Wentink questioned Mr. Koppenaar if they have an LOI. Mr. Koppenaar indicated that there was a previous submission to this board by the fair grounds and the wetlands had been delineated on prior plans.

Number 24 of the checklist refers to the certification of accuracy by the preparer which is not included on this map. Mr. McConnell indicated that this has been done.

Number 26 of the checklist refers to the Zoning Data map showing zoning of the site or surrounding properties, which is not included on this application.

Number 28 of the checklist refers to showing existing structures within 200' and is checked N/A but should be checked Waiver. The board agreed.

NEW APPLICATIONS CONT.

County of Sussex (Farmer's Market) – LUB 08-13 – Block 10, Lot 4 & Block 11, Lots 3, 4 & 5 – Sussex County Farm & Horse Show Property – Review by Planning Board for Capital Projects (Pursuant to N.J.S.A. 40:55D-31 – Site Plan:

Number 29 of the checklist refers to listing of adjoining owners, which the addresses are not shown. Mr. Wentink suggested that this is an item that can be waived. The board agreed.

Number 31 of the checklist refers to the North Arrow. He indicated that the reference meridian is not provided. Mr. Koppenaar indicated that normally they would provide this, but the property survey they have incorporated into this set of plans was obtained from the property owner's engineer and surveyor. Therefore, it was not something that they prepared. This survey was submitted to the board last month on a previous application for a similar type of structure on the fair property.

Number 32 of the checklist refers to properties within 200'. A 200' line is not shown.

Number 34 of the checklist refers to project location on Key Map. Mr. Wentink indicated that the applicant shows a darkened circle but the entire area owned by the Sussex County Farm and Horse Show is not highlighted. He feels this is acceptable.

Number 39 of the checklist refers to the property lines to nearest hundredth. The property line for the entire tract are not shown. Mr. Koppenaar indicated that this was the information that was obtained from the property owner's surveyor/engineer, which is the same set of data that was submitted on the prior application.

Number 42 of the checklist refers to the building envelope. Mr. Wentink indicated that nothing was shown. He feels this is acceptable because it is far away from the property line.

Number 43 of the checklist refers to showing the existing utilities. Mr. Wentink indicated that any existing water mains are important to this application because on one corner of this building they are proposing portable water hydrants. He does not feel that hydrants are portable water and if they are proposing a hydrant, is there water there to support this? Mr. Koppenaar indicated that it was the intent that there is existing water service in the barn. As part of some of the work either by the County or the Fair, when and if the water was determined to be a necessity for the farmers, then they would install a frost proof hydrant on the outside corner of this building which are similar to the hydrants that they have at some of the other buildings around the fair facilities.

Number 76 of the checklist refers to solid wastes enclosures and is checked N/A. Mr. Wentink indicated that in his opinion this is an important consideration. Mr. Koppenaar indicated that it was his understanding that this building was going to be serviced by the same infrastructure that services the entire fair facility. Therefore, the same receptacles that they have scattered around the fair grounds will be used around this building and collected after the event. Mr. Silk indicated that there is a trash compactor located next to the red barn that was referred to earlier this evening which is within a very short distance from the proposed Farmer's Market which can be used for the trash collection for any event held in this building.

Mr. Clark should rule on the necessity of a use variance for a "Farm Stand". There are many sections of the ordinance that this could fall under. Some may be under Number 4 and Number 7 of "Permitted Uses" and Number 4 of "Accessory Uses" which refers to Section 16.2, which is Definitions. Under this a Farm Stand is defined as, "Farm Stand shall mean a building on a farm property on which are grown a substantial portion of the products for sale" and Orchard Stand is not defined. Mr. Clark indicated to the board that

NEW APPLICATIONS CONT.

County of Sussex (Farmer's Market) – LUB 08-13 – Block 10, Lot 4 & Block 11, Lots 3, 4 & 5 – Sussex County Farm & Horse Show Property – Review by Planning Board for Capital Projects (Pursuant to N.J.S.A. 40:55D-31 – Site Plan:

the County is before the board for a Review of Capital Projects referred to in the Municipal Land Use Law and does not need a variance.

On Sheet 2 of 4 Note 4 refers to the use of the building. Is this just during Fair time, the entire season or entire year? It does not appear that heat or plumbing is proposed for the building so it appears that year round use is not proposed. Mr. Silk indicated it would probably run from March to some time in November.

Note 8 talks about “if” additional lighting is necessary building mounted lights will be provided. Who makes this decision and when will it happen? A lighting plan is not included in this application. Mr. Silk indicated that most of the activities will take place during the day, there should not be any at night. Mr. Koppenaal indicated that the typical Farmer's Market runs from 9 a.m. to 3 p.m. with an hour set up before and an hour clean up after. It was agreed that if there is additional lighting needed, it should be referred to Mr. Wentink for review.

Note 12 refers to dry wells for the roof drains. Test pits are necessary to demonstrate that the soils are satisfactory for dry wells. A concern is the elevation of the existing pond to the southwest of the site relative to the elevation of the area of the proposed building generating a high water table. Mr. Koppenaal indicated that they did not dig test pits for the dry wells. Through discussions with the property owner's engineer and surveyor, the information of past projects and work in that area has indicated that the soils should easily accommodate the intent of the design of the dry well. He feels the dry wells will exceed the minimum permeability rates that are required for this type of system to function.

Note 14 states, “See General Note 2”. Should it be General Note 3? Mr. Koppenaal indicated that this should be changed.

On Sheets 2 and 3 of 4 there is nothing about parking or parking areas and there is no detail regarding surfacing a parking area. There are no existing parking areas within at least 200 or 300 feet of the site, unless the gravel lanes around the site are to be used for parking. A lot of the fairgrounds equipment is parked to the northeast around the barn. Mr. Koppenaal indicated during the development discussions with the property owner, their engineer, the architect and the committee that will be over seeing the farmer's market, they decided to leave the existing grass parking areas that are utilized by the fair grounds to service this facility. He stated that there are some DGA isle ways that go around the building area.

There is nothing on the plan regarding sanitary facilities. Mr. Koppenaal indicated that they will utilize the existing facilities at the site.

There is nothing on the plan regarding a sign. Mr. Koppenaal indicated that there will be some sort of signage on the building identifying the building as they are on the other buildings in the fair grounds which will meet the ordinance requirement of 24 square feet. There will be no freestanding signage.

The pond is 115 feet from the area shaded as being the area of disturbance. The NJDEP is the only place where the extent of the transition area can be determined. Mr. Koppenaal indicated that it was his understanding that the basic information that they received to advance the design included wetlands delineation that was done on the property as a hole and that the building location which was provided to him to design

APPLICATIONS FROM A PREVIOUS MEETING CONT.

Paul Camuti – LUB 08-09 – Block 174, Lot 1 – 35 Lake View Point Avenue - “C” & “D” Variance cont.:

Mr. Haggerty indicated that this application was before the board previously and was carried to this meeting to give the board an opportunity to do individual on site inspections. He indicated that at the previous meeting the board requested a better depiction of the existing structure and the proposed addition. He presented to the board Exhibit “A-6” which was a colorized version of the floor plan, which consisted of 2 pages. He indicated that the plan shows the existing conditions in color. He indicated on the first floor the only addition is the covered porch that is not considered in the Floor Area Ratio. They have retained the same number of bedrooms that exist presently.

Mr. Haggerty indicated that they also provided to Mr. Pellow and the board a letter from the architect, which notes the revised FAR. The existing square footage of the house is 1,601 square feet, not 1,115 square feet as indicated on the drawings. The requested FAR is 2,230. Mr. Pellow indicated that the applicant is allowed 17.4% on the FAR Graph. The applicant is requesting a FAR of 23.3%.

Mr. Gstattenbauer indicated that he feels it is consistent with the surrounding homes in this area. Several board members agreed.

Mr. Haggerty indicated that they have an approval for the wetland application dated November 20, 2006 and it permitted 22% FAR within 200’. He indicated that the applicant is right next to a right of way, which provides a buffer. There is a very small garage, there is not a basement and there is no attic proposed. They are increasing the building height; however, they are not increasing the number of bedrooms. They are not increasing the footprint with the exception of the open porch, which is on the first floor. They are in keeping with the buildings and homes in the neighborhood.

A Motion was made by Mrs. Fountain and seconded by Mr. Ayers to open this matter to the public. All were in favor. The Motion was carried.

Appearing before the board was Tom Powers who was sworn in by the board attorney. Mr. Powers indicated that he is in favor of the applicant’s request and feels his addition will fit in with the neighborhood.

There being no further public participation, a Motion was made by Mr. Ayers and seconded by Mr. Dolan to close this matter to the public. All were in favor. The Motion was carried.

Mr. Clark summarized the application. He indicated that this is a “D” Variance for FAR. The maximum allowed FAR is 17.4% and the applicant is proposing a 23.3% FAR. The applicant is also requesting front yard; side yard and rear yard variances, which are mostly because of existing conditions.

A Motion was made by Mr. Larson and seconded by Mr. Gstattenbauer to approve the “D” Variance for a FAR of 23.3% as requested by the applicant. Roll Call:

YES: 7 Ayers, Bennett, Fountain, Gstattenbauer, Larson, Romania, Dolan

NO: 0

ABSTAIN: 0

The Motion was carried.

APPLICATIONS FROM A PREVIOUS MEETING CONT.

Paul Camuti – LUB 08-09 – Block 174, Lot 1 – 35 Lake View Point Avenue - “C” & “D” Variance cont.:

A Motion was made by Mr. Larson and seconded by Mr. Gstattenbauer to approve side front and rear yard variances requested by the applicant. Roll Call:

YES: 7 Ayers, Bennett, Fountain, Gstattenbauer, Larson, Romania, Dolan

NO: 0

ABSTAIN: 0

The Motion was carried.

Todd M. Okeson – LUB 07-26 – Todd M. Okeson – Block 160, Lots 1-6 – Lower North Shore Drive – Minor Subdivision, “C” & “D” Variances:

Mrs. Fountain stepped down from this application and left the meeting.

Appearing before the board was the applicant, Todd M. Okeson, his attorney, William Haggerty, and his engineer, James Glasson. Mr. Okeson and Mr. Glasson were still under oath from the previous meeting.

Mr. Haggerty indicated that this application was previously before the board and was carried to this meeting to give the board an opportunity to do individual on site inspections. This application involves a subdivision and variances. One of the issues the board was concerned about was the divisioning of the home in proximity to a paper street. He indicated although this is a paper street and it is anticipated to remain a paper street, the house does not have the required setbacks from this paper street. He indicated that First Avenue goes down to a swamp area. The applicant could offset the home a little bit more towards Sunken Road in front. Mr. Romania indicated that the other concern of the board was leaving the adjoining property owner with an undersized lot.

Mr. Haggerty stated the applicant is requesting a Minor Subdivision, there are the series of lots which the applicant will build his home on, there is a subdivision of the Hutchinson property to be deed restricted for the lake access of the applicant, which is proposed Lot 6.02. He further indicated that there would be a deed restriction for the isolated septic lot which is segregated from the residential lot by the paper street, First Avenue.

Mr. Ayers suggested to the applicant to request to have a potential structure on the deed restricted lot for the access to the lake so they may have a gazebo for use while they are at the lake. The applicant agreed to a structure of up to 100 square feet on proposed Lot 6.02 which will meet the required setbacks for this zone.

Mr. Haggerty indicated that the applicant did receive a septic approval for this lot.

A Motion was made by Mr. Nadolny and seconded by Mr. Larson to open this matter to the public. All were in favor. The Motion was carried.

There being no public participation, a Motion was made by Mr. Larson and seconded by Mr. Nadolny to close this matter to the public. All were in favor. The Motion was carried.

Mr. Ayers questioned as to how many feet can the applicant move the house. Mr. Glasson indicated it could be moved 10' as to where it is currently proposed off the

APPLICATIONS FROM A PREVIOUS MEETING CONT.

Todd M. Okeson – LUB 07-26 – Todd M. Okeson – Block 160, Lots 1-6 – Lower North Shore Drive – Minor Subdivision, “C” & “D” Variances cont.:

property line, which they will also move the pool 5'. The setback will be 33.4' off of Sunken Road and at least 5' off the right of way; and 9.4' on the First Avenue side.

Mr. Clark summarized this application. He indicated it was for a “D” Variance to create a new lot where a shed or accessory structure will be the principal structure. The structure will be up to 100 square feet. The special reasons are the configuration of the lake and also the lot is going to be used as an accessory lot, which will be joined by a deed to the house lot. The “C” Variances are the setbacks for the house. The list of variances are stated in Mr. Pellow’s report.

A Motion was made by Mr. Dolan and seconded by Mrs. Albanese to approve the “D” Variances requested of the applicant. Roll Call:

YES: 7 Ayers, Bennett, Gstatenbauer, Larson, Romania, Albanese, Dolan

NO: 0

ABSTAIN: 0

The Motion was carried.

A Motion was made by Mr. Larson and seconded by Mr. Gstatenbauer to approve the “C” Variances requested of the applicant and the Minor Subdivision. Roll Call:

YES: 7 Ayers, Bennett, Gstatenbauer, Larson, Romania, Albanese, Dolan

NO: 0

ABSTAIN: 0

The Motion was carried.

BOARD BUSINESS CONT.:

Subcommittee Reports cont.

TDR Committee:

There was nothing to report from this committee this evening.

Tech Committee:

Mr. Larson indicated that he is in the process of obtaining updated bids on the equipment needed.

Plan Endorsement Advisory Committee (PEAC):

It was noted that the PEAC will be at the June 25, 2008 Land Use Board meeting.

Floor Area Ratio Committee:

There was nothing to report from this committee this evening. This will be discussed at the June 25th meeting when the Zoning Officer is here.

